

Chapter 9.32

LOTTERIES

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9.32.010 Definitions.

For the purpose of this chapter, the following words shall have the following meanings:

Lottery shall mean a gambling scheme in which:

- (1) Participants pay or agree to pay something of value for an opportunity to win;
- (2) Winning opportunities are represented by tickets differentiated by sequential enumeration; and
- (3) Winners are determined by a random drawing of the tickets.

Lottery shall not include:

- (1) Any raffle as defined in this section;
- (2) Any gambling scheme which uses any mechanical, computer, or video gaming device which has the capability of awarding something of value or free games redeemable for something of value;
- (3) Any activity which is authorized or regulated under the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, *Neb. Rev. Stat.* § 9-701 (Reissue 1987) as may be amended, or *Neb. Rev. Stat.* §§ 2-1201 through 2-1229, as may be amended; or
- (4) Any activity prohibited by *Neb. Rev. Stat.* §§ 28-1101 through 28-1117, as may be amended.

Raffle shall mean a gambling scheme in which:

- (1) Participants pay or agree to pay something of value for an opportunity to win;
- (2) Winning opportunities are represented by tickets differentiated by sequential enumeration;
- (3) Winners are determined by a random drawing of the tickets; and
- (4) At least eighty percent of the prizes to be awarded shall be merchandise prizes which are not directly or indirectly redeemable for cash by the licensed organization conducting the raffle or any agent of the organization.

Raffle shall not include:

- (1) Any lottery as defined in this section;
- (2) Any gambling scheme which uses any mechanical, computer, or video gaming device which has the capability of awarding something of value, free games redeemable for something of value;
- (3) Any activity which is authorized or regulated under the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, *Neb. Rev. Stat.* § 9-701 (Reissue 1987) as may be amended, or *Neb. Rev. Stat.* §§ 2-1201 through 2-1229, as may be amended; or
- (4) Any activity prohibited by *Neb. Rev. Stat.* § 28-1101 through 28-1117, as may be amended.

Something of value shall mean any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money, or property, or of any interest therein, or involving extension of a service or entertainment.

Engage in related activity shall mean acting other than as a player in conduct that materially aids any lottery or raffle. Conduct of this nature includes but shall not be limited to conduct directed toward:

- (1) The creation or establishment of the lottery or raffle, or
- (2) The sale or offering for sale of lottery chances or raffle tickets to the public.

Gross proceeds shall mean the total receipts received from the conduct of the lottery or raffle without any reduction for commissions, discounts, or other expenses. Gross proceeds shall include the value of any free tickets or free plays used. (Ord. 15624 §1; July 9, 1990: P.C. §5.69.010: Ord. 13882 §1; July 2, 1984: prior Ord. 13701 §1; September 26, 1983).

9.32.020 Permit for Lottery or Raffle; When Required.

(a) It shall be unlawful for any county, city, or village authorized to conduct lotteries pursuant to the provisions of the Nebraska County and City Lottery Act, or for any nonprofit organization or volunteer fire company authorized to conduct lotteries or raffles pursuant to the provisions of the Nebraska Lottery and Raffle Act, to conduct a lottery or lotteries, raffle or raffles, in the City of Lincoln or for any person to engage in related activity on behalf of such county, city, village, or nonprofit organization in the City of Lincoln unless such county, city, village, or nonprofit organization shall have first obtained a permit as provided herein.

(b) Nothing in this section shall be construed to apply to a raffle with gross proceeds of not more than \$5,000.00 or lottery with gross proceeds of not more than \$1,000.00. (Ord. 15624 §2; July 9, 1990: P.C. §5.69.020: Ord. 13882 §2; July 2, 1984: prior Ord. 13701 §2; September 26, 1983).

9.32.030 Application for a Permit.

Application for a permit as provided in Section 9.32.020 hereof shall be filed with the City Clerk and shall contain the following information:

- (a) Name of the county, city, village, or nonprofit organization applying for a permit to conduct a lottery or raffle and the address of its headquarters.
- (b) Names and addresses of its principal officers and management.
- (c) Name, address, and telephone number of the person or persons who will be in direct charge of conducting the lottery or raffle.

(d) Statement of facts showing that the county, city, village, or nonprofit organization is authorized to conduct a lottery or raffle pursuant to state law.

(e) List of all the locations where the lottery tickets (chances) are to be sold in the City of Lincoln.

(f) Name, address, and telephone number of the person or persons who shall be responsible for the proper utilization of the gross receipts derived from the conduct of the lottery or raffle.

(g) The specific nature and type of lottery or raffle to be conducted, including a sample of the type of ticket to be sold and the method of selection of winning tickets.

(h) The lawful purposes as defined by *Neb. Rev. Stat.* § 9-408 to which the profits from the conduct of the lottery or raffle are to be devoted.

(i) The price to be charged for each lottery chance or raffle ticket.

(j) The nature of the prizes, money, or merchandise.

(k) The date the lottery or lotteries or raffle will begin and end.

(l) The number of lotteries or raffles to be conducted during the term of the permit which shall not run for more than one year. (Ord. 18451 §1; October 11, 2004; prior Ord. 15624 §3; July 9, 1990: P.C. §5.69.030; Ord. 13806, as amended by Ord. 13882 §3; July 2, 1984: Ord. 13701 §4; September 26, 1983).

9.32.040 Lotteries or Raffles; Prohibited Conduct.

(a) No lottery or raffle shall be granted a permit under this chapter which:

(1) Utilizes electronic or video devices;

(2) Utilizes chances that are not numbered separately and sequentially;

(3) Utilizes chances which, when sold, are not physically separate, or contain more than one number on each chance or any other number or numbers other than the one number that separately and sequentially numbers each chance, other than informational numbers such as date of drawing, addresses, and similar information; or

(4) Is conducted in any manner contrary to applicable state law.

(b) Any person conducting a lottery or raffle shall be a member or officer of the organization holding the lottery or raffle permit and shall not receive any compensation, directly or indirectly, for any duties connected with conducting the lottery or raffle. No compensation shall be paid to any other person for the conduct of, or in connection with, a lottery or raffle, either directly or indirectly, except for security services. Any person providing security services shall not assist in the conducting of the lottery or raffle.

(c) No permittee shall conduct or provide for more than one drawing or round of drawings per week. For purposes of this subsection, a "round of drawings" shall mean consecutive drawings occurring at one time and location sufficient in number to award all stated or advertised prizes for a lottery or raffle.

(d) No structure within the City of Lincoln shall be used more than once per week for the conducting of drawings or any other method of determining winning chances for any lottery or raffle. For purposes of this section, structure shall mean a single building regardless of the number of addresses or entrances. (Ord. 15624 §4; July 9, 1990: P.C. §5.69.035; Ord. 13806, as amended by Ord. 13882 §4; July 2, 1984: prior Ord. 13701 §4; September 26, 1983).

9.32.050 Issuance of Permit.

After a review of the application to determine its compliance with Sections 9.32.030 and 9.32.040 and within seven days of the receipt of the application, the City Clerk shall either approve the application or notify the person applying that the application does not comply with the requirements of Sections 9.32.030 and 9.32.040 and applicable state laws, and specifically point out what information or explanation has not been furnished that is required before a permit can be issued.

If the application is approved, the City Clerk shall issue the permit upon payment by the applicant of a fee of ten dollars, the same to be deposited in the General Fund to defray administrative expense hereunder. Said permit shall be nontransferable, shall run for the time specified on the permit application and in no event longer than one year. Furthermore, said permit shall be valid only for the specific lottery or lotteries or raffle or raffles described in the application. (Ord. 18451 §2; October 11, 2004: prior Ord. 15624 §5; July 9, 1990: P.C. §5.69.040: Ord. 13806, as amended by Ord. 13882 §5; July 2, 1984: Ord. 13701 §5; September 26, 1983).

9.32.060 Final Accounting Required.

At the conclusion of each lottery or raffle described in the application by any county, city, village, or nonprofit organization securing a permit as herein provided, such permit holder shall file in writing with the City Clerk a report signed and sworn to before a person authorized to administer oaths and containing information showing the gross amount raised by such lottery or raffle from the sale of lottery chances or raffle tickets within the city. The report required herein shall be filed no later than sixty days after the conclusion of the lottery or raffle and a failure to file such report within the required time shall constitute a violation of this section. (Ord. 15624 §6; July 9, 1990: P.C. §5.69.050: Ord. 13882 §6; July 2, 1984: prior Ord. 13701 §6; September 26, 1983).

9.32.065 Appeal.

Any person aggrieved by the action of the City Clerk in denial of an application for a permit shall have the right to appeal to the Permit Review Board, consisting of the Chief of Police, the Director of Public Works and Utilities, and a citizen of the City of Lincoln appointed by the Mayor. Such appeal shall be taken by filing with City Clerk, within fourteen days of the denial, a written statement setting forth the grounds for appeal. The City Clerk shall set a time and place for hearing thereon not less than eight days after the filing of the appeal. Notice of such hearing shall be mailed, postage prepaid, to the permittee at his or her last known address at least five days prior to the date set for hearing. (Ord. 18451 §3; October 11, 2004).

9.32.070 Revocation of Permit.

(a) Permits issued under the provisions of this chapter may be revoked by the City Clerk after notice and hearing for any of the following causes:

(1) Fraud, misrepresentation, or false statement contained in the application for the permit.

(2) Any violation of this chapter.

(b) Notice of the hearing for revocation of the permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing before the Permit Review Board. Such notice of hearing shall be given to the applicant in the same manner as provided in Section 9.32.065 of this chapter. (Ord. 18451 §4; October 11, 2004: prior Ord. 15624 §7; July 9, 1990: P.C. §5.69.060: Ord. 13882 §7; July 2, 1984: Ord. 13701 §7; September 26, 1983).

9.32.080 Tax on Gross Proceeds.

Pursuant to *Neb. Rev. Stat.* § 9-643 (Supp. 1989) and *Neb. Rev. Stat.* § 9-433 (Reissue 1987), as may be amended, a tax of five percent is imposed on the gross proceeds received from the sale of lottery or raffle chances/tickets within the city, which tax shall be due no later than sixty days after the conclusion of the lottery or raffle and if unpaid shall thereafter be delinquent. Such tax proceeds shall be credited to the General Fund of the city. (Ord. 15624 §8; July 9, 1990: P.C. §5.69.070: Ord. 13882 §8; July 2, 1984: prior Ord. 13701 §8; September 26, 1983).